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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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- 10/027,733	12/19/2001	Monte V. Hurley	12521-016	9765
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EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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07/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/027,733

Applicant(s)

HURLEY ET AL.

Examiner

Clement B. Graham

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-45 remained pending

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-45, are rejected under 35 U.S.C. 102(e) as being anticipated by Phelan et al.(Hereinafter Phelan US P No: 2002/0072927A1).

As per claim 1, Phelan discloses an entity records system for tracking information pertaining to a plurality of entities, the system comprising: an entity identification capture to record identification information for each entity;
a revenue capture in data communication with the entity identification capture to record revenue information for the entity (see column 1 paragraph 0022 and column 2 paragraph 0024-0063) a delinquency data capture in data communication with the entity identification capture to record account delinquency information for each entity; and a negative payment history capture in data communication with the entity identification capture to track the negative payment history for each entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 2, Phelan discloses wherein the entity identification capture comprises a business name, an address, and a business telephone number.(see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 3, Phelan discloses wherein the entity identification capture identifies a district number, a marketing number and a route number for a specified entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

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As per claim 4, Phelan discloses wherein the entity identification capture identifies the business hours for a specified entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 5, Phelan discloses wherein the revenue capture comprises a prior month commission total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 6, Phelan discloses wherein the revenue capture comprises a prior month gross revenue total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 7, Phelan discloses wherein the revenue capture comprises a year to date commission total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 8, Phelan discloses wherein the revenue capture comprises a year to date revenue total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 9, Phelan discloses wherein the revenue capture identifies a commission payment by displaying a check number, a check date and a check amount corresponding to the commission payment. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 10, Phelan discloses wherein the delinquency data capture comprises a delinquency count. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 11, Phelan discloses wherein the delinquency data capture identifies an account delinquency by providing a delinquency date and a reason for the delinquency. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 12, Phelan discloses wherein the delinquency data capture identifies an adjustment in the delinquency count. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 13, Phelan discloses wherein the negative payment history capture comprises a bank returned check capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 14, Phelan discloses wherein the negative payment history capture comprises a company returned check capture.

As per claim 15, Phelan discloses wherein the negative payment history capture comprises a missing check capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 16, Phelan discloses wherein the negative payment history capture comprises a missing bank deposit capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 17, Phelan discloses wherein the negative payment history capture comprises a certified funds requirement indicator. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 18, Phelan discloses further comprising a commission schedule for a specified entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 19, Phelan discloses 19. The entity records system of claim 1 further comprising a commission check mailing address. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 20, Phelan further comprising an owner identification feature. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 1, Phelan discloses further comprising a contract information capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 22, Phelan discloses wherein the contract information capture includes an addendum information capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 23, Phelan discloses further comprising a month to date adjustments capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 24, Phelan discloses further comprising a year to date adjustments capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 25, Phelan discloses an entity records system for tracking information pertaining to a plurality of entities, the system comprising: an entity

identification capture to record identification information for each entity(see column 1 paragraph 0022 and column 2 paragraph 0024-0063) and a revenue capture in data communication with the entity identification capture to record revenue information for the entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 26, Phelan discloses wherein the entity identification capture comprises a business name, an address, and a business telephone number. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 27, Phelan discloses wherein the entity identification capture identifies a district number, a marketing number and a route number for a specified entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 28, Phelan discloses wherein the entity identification capture identifies the business hours for a specified entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 29, Phelan discloses wherein the revenue capture comprises a prior month commission total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 30, Phelan discloses wherein the revenue capture comprises a prior month gross revenue total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 31, Phelan discloses wherein the revenue capture comprises a year to date commission total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 32, Phelan discloses wherein the revenue capture comprises a year to date revenue total. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 33, Phelan discloses wherein the revenue capture identifies a commission payment by displaying a check number, a check date and a check amount corresponding to the commission payment. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 34, Phelan discloses an entity records system for tracking information pertaining to a plurality of entities, the system comprising: an entity identification capture to record identification information for each entity(see column 1 paragraph 0022 and column 2 paragraph 0024-0063) and a delinquency data capture in data communication with the entity identification capture to record account delinquency information for each entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 35, Phelan discloses wherein the delinquency data capture comprises a delinquency count. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 36, Phelan discloses 36. The entity records system of claim 34 wherein the delinquency data capture identifies an account delinquency by providing a delinquency date and a reason for the delinquency. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 37, Phelan discloses wherein the delinquency data capture identifies an adjustment in the delinquency count. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 38, Phelan discloses an entity records system for tracking information pertaining to a plurality of entities, the system comprising: an entity identification capture to record identification information for each entity(see column 1 paragraph 0022 and column 2 paragraph 0024-0063) and a negative payment history capture in data communication with the entity identification capture to track the negative payment history for each entity. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 39, Phelan discloses wherein the negative payment history capture comprises a bank returned check capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 40, Phelan discloses wherein the negative payment history capture comprises a company returned check capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 41, Phelan discloses 41. The entity records system of claim 38 wherein the negative payment history capture comprises a missing check capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 42, Phelan discloses wherein the negative payment history capture comprises a missing bank deposit capture. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 43, Phelan discloses wherein the negative payment history capture comprises a certified funds requirement indicator. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 44, Phelan discloses a method of tracking information pertaining to a plurality of entities, the method comprising the steps of: storing and retrieving entity identification data; storing and retrieving revenue information pertaining to the entities(see column 1 paragraph 0022 and column 2 paragraph 0024-0063) storing and retrieving delinquency data pertaining to the entities; and storing and retrieving negative payment history pertaining to the entities. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

As per claim 45, Phelan discloses further comprising the steps of: providing a searchable database having a query field; wherein in response to the input of an entity identifier, at least one of the entity identification data, revenue information, delinquency data or negative payment history is displayed. (see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

CONCLUSION

RESPONSE TO ARGUMENTS

- 4 Applicant's arguments filed 4/5/2007 has been fully considered but they are not persuasive for the following reasons.
5. In response to Applicant's arguments that Phelan fail to teach or suggest" an entity identification capture to record identification information for each entity, a revenue capture in data communication with the entity identification capture to record revenue information for the entity a delinquency data capture in data communication with the entity identification capture to record account delinquency information for each entity;

and a negative payment history capture in data communication with the entity identification capture to track the negative payment history for each entity and discloses an entity records system for tracking information pertaining to a plurality of entities, the system comprising: an entity identification capture to record identification information for each entity and a revenue capture in data communication with the entity identification capture to record revenue information for the entity" the Examiner disagrees with Applicant's because these limitations were addressed as stated.

Phelan discloses an entity identification capture to record identification information for each entity;

a revenue capture in data communication with the entity identification capture to record revenue information for the entity see column 1 paragraph 0022 and column 2 paragraph 0024-0063 a delinquency data capture in data communication with the entity identification capture to record account delinquency information for each entity; and a negative payment history capture in data communication with the entity identification capture to track the negative payment history for each entity. see column 1 paragraph 0022 and column 2 paragraph 0024-0063 and an entity identification capture to record identification information for each entity and a revenue capture in data communication with the entity identification capture to record revenue information for the entity. see column 1 paragraph 0022 and column 2 paragraph 0024-0063).

Therefore it is inherently clear that Applicant's claimed limitations were addressed within the teachings of Phelan.

6. Further Applicant's claims 1, 25, states "to record identification information, to record revenue information, to record account delinquency information, to track the negative payment history "

However the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question

as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

****>**USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").<

Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. Toro Co. v. White Consolidated Industries Inc., 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a "lexicographic vacuum, but in the context of the specification and drawings."). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." Multiform Desiccants Inc. v. Medzam Ltd., 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). See also MPEP § 2111.01.

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7. Claim 44 states storing and retrieving information revenue, identification, delinquency, and negative payment history pertaining to the entities.

However there is no description of the data being store or retrieve, all that is being stored and retrieve is just data.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

June 3, 2007


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3692